

**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
ENERGY BUREAU OF PUERTO RICO**

IN RE: REQUEST FOR CERTIFICATION
SUNEDISON PUERTO RICO, LLC.

CASE NO.: CEPR-CT-2016-0014

SUBJECT: Gross Revenue, Financial
Statements and Annual Operational
Reports.

RESOLUTION AND ORDER

I. Introduction

On January 29, 2022, the company SunEdison Puerto Rico, LLC (“SunEdison”) filed before the Energy Bureau of the Puerto Rico Public Service Regulatory Board (“Energy Bureau”) the following documents:

- (1) *Motion in Compliance with Section 4.02 of Regulation No. 8701 and to Request Confidential Treatment of Financial Information* (“Jan 29 Request”)
- (2) *Gross Revenue and Financial Statements Report Electrical Power Companies* (Form NEPR-B05)
- (3) Non-titled Annexes

SunEdison argues that the information for which they requested protection is of confidential nature and is not publicly available, therefore its public dissemination will place SunEdison at a competitive disadvantage with respect to other market participants and cause SunEdison economic harm.¹

On March 31, 2022, SunEdison filed before the Energy Bureau a document titled *Request For Extension To File 2022 Operational Report* (“March 31 Request”). Through this March 31 Request, SunEdison informs that it has yet to complete the 2022 operational report, as required by Regulation 8701², since it is still gathering data and information to complete the annexes. SunEdison alleges it can be in a position to file its operational report within the next thirty (30) days following the filling of its March 31 Request. Therefore, SunEdison requested an extension until April 30, 2022 to file its operational report.

On April 29, 2022, SunEdison filed a second Request for Extension (“April 29 Request”). In the April 29 Request, SunEdison requests that the Energy Bureau grants until May 30, 2022, to file its 2022 operational report since it has yet to complete all the steps to formalize its filing and believes it can be in position to file its operational report within the next thirty (30) days.

On May 31, 2022, SunEdison filed a document titled *Third Request for Short Extension to File 2022 Operational Report* (“May 31 Request”). Through its motion, SunEdison requests ten (10) additional days to file its operational report.

¹ Jan 29 Request, p. 3, ¶5.

² *Amendment to Regulation No. 8618, on Certifications, Annual Fees and Operational Plans of Electric Service Providers in Puerto Rico*, February 5, 2016. Regulation 8701 was amended by Regulation 9182, *Amendment to Regulation No. 8701, on Certifications, Annual Fees and Operational Plans of Electric Service Providers in Puerto Rico*, June 8, 2020.



II. Regulation 8701

Act 57-2014³ requires that every Electric Service Company⁴ obtain a certification⁵ to provide services in Puerto Rico, besides presenting specific information under the requirements established by the Energy Bureau. Regulation 8701 establishes the requirements that any electric service company must comply with to provide electric services in Puerto Rico.

A. Operational Report

Section 2.02 of Regulation 8701 establishes the requirement for an electric service company to file to the Energy Bureau their operational reports. Specifically, Sections 2.02(A)(1), (D) and (E) of Regulation 8701 establish the following:

A) In accordance with the provisions of this Section, the following electric utilities shall submit to the Commission an Operational Report containing the following information:

- 1) Persons who offer power generation services for sale in Puerto Rico through distributed generators interconnected to the PREPA grid with an aggregate capacity of one megawatt (1 MW) or more, regardless of whether or not such distributed generators or the customers to whom the energy is sold are participating in PREPA's Net Metering Program; or

Persons who generate energy through the use of fossil fuels or renewable energy sources, with an aggregate capacity equal to or less than one hundred megawatts (100 MW), to sell it to PREPA or another electric service company under a power purchase agreement.

[...]

The electric service companies identified in this subsection (A)(1) **shall submit an Annual Operational Report**, in accordance with the provisions of this sub-paragraph and subsection (D) of this Section. (Emphasis supplied.)

[...]

D) Notwithstanding the provisions of paragraph (A) of this Section regarding the frequency with which each class of electric service company must submit the Operational Report, it must be submitted to the Commission **on or before the month of March of the year** in which its filing corresponds. Likewise, the Commission may order any electric service company to submit at any time all or part of the information required in the Operational Report. (Emphasis supplied.)

E) The electric utility **will refer its Operational Report to the EPPP for review and comments prior to its submission to the Energy Commission**. When submitting its Operational Report to the Commission, the electric utility company will indicate whether it referred it to the EPPP for review and comments. (Emphasis supplied.)

³ Known as the *Transformation and Energetic RELIEF Act of Puerto Rico*, as amended ("Law 57-2014")

⁴ Section 1.3(l) of Law 57-2014 defines the term "Energy Company" or "Electric Service Company" as "any person or entity, natural or legal, energy cooperative, dedicated to offering generation services, transmission and distribution, billing, energy wheeling, network services ("grid services"), energy storage, resale of electricity, as well as any other electrical service as defined by the Bureau. The Electric Power Authority or its successor, as well as any Contractor under an Alliance Contract or Sales Contract granted in relation to PREPA Transactions entered into by virtue of Law 120-2018, shall be considered as Electric Service Companies for the purposes of this Law".

⁵ See Section 6.13 of Law 57-2104. Also see, Section 1.3(h) of Law 57-2014, which define "Certified" as "any electric service company which have been evaluated and authorized by the Energy Bureau."



[Handwritten signatures and initials in blue ink, including 'JMM', 'JAA', and 'JMA']

SUNEDISON requested that the Energy Bureau grants until May 30, 2022, to file its 2022⁶ operational report.

B. Gross Income and Financial Statements

Section 4.02 of Regulation 8701, as amended, establishes the requirement for an electric service company to inform to the Energy Bureau their gross revenue. Section 4.02(A) of Regulation 8701 establishes the following:

- A) All electric service companies operating in Puerto Rico before this Regulation entered into force must inform, along with their Personal Information filing under Section 2.01 of this Regulation, **the Annual Gross Revenue generated during each Natural Year**, as well as the latest compiled or audited financial statements, if any, as is applicable in accordance with Subsections (E) and (F) of this Section. For the following periods, electric service companies must inform their Annual Gross Revenue within a period of sixty (60) days following the conclusion each Natural Year. (Emphasis supplied.)

Specifically, Section 4.02(E) establishes that:

- E) When the Annual Gross Revenue of an Electric Service Company during a Calendar Year is equal to or less than three million dollars (\$3,000,000.00), the Annual Gross Revenue report must be signed by the authorized representative of the Electric Service Company. The signature of the authorized representative shall constitute a certificate under oath, under penalty of perjury, that such information is correct and complete. In addition, the Electric Utility Company shall submit to the Energy Bureau **its financial statements for each Fiscal Year** compiled by an Authorized Public Accountant (CPA) authorized to practice such profession in Puerto Rico, or in any jurisdiction of the United States of America. Such compiled financial statements shall be submitted to the Energy Bureau within one hundred and twenty (120) days, counted from the date on which the Electric Service Company's Fiscal Year ends. The provisions of this paragraph shall apply to any successor to the Puerto Rico Electric Power Authority. (Emphasis supplied.)

SunEdison Fiscal Year **begins** on December 1 and **ends** on November 30. In the Non-titled *Annexes* attached to the Form NEPR-B05, SunEdison filed its financial statements from December 2020 to November 2021. SunEdison **complied** with requirements of Section 4.02(E).

Section 4.02(A) requires Electric Service Companies to report its Annual Gross Revenues generated during each **Natural Year**. SunEdison did not report the Gross Revenues generated during the month of December 2021. SunEdison **did not complied** with the requirements of Section 4.02(A) of Regulation 8701, as amended. SunEdison **must** report i) the Gross Revenues generated during the month of December 2021; ii) total Gross Revenues generated during the Natural Year 2021.

III. Confidential Treatment

Act No. 57-2014 establishes that any person having the obligation to submit information to the Energy Bureau, may request that any information deemed privileged or confidential be treated in such fashion⁷. Specifically, Act 57-2014 requires from the Energy Bureau to treat as confidential the information submitted provided that "after the appropriate evaluation, believes such information should be protected"⁸. In such case, "the Energy Bureau shall grant

⁶ As a clarification: SunEdison must submit the 2021 operational report, which its due date was March ⁴ 2022. By mistake, SunEdison wrote "2022 operational report".

⁷ Section 6.15 of Act 57-2014, *Rules of Confidentiality*.

⁸ *Id.* at (a).



such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted”⁹.

SunEdison requested Confidential Treatment for the gross income data and financial statements filed on Jan 28, 2022.

IV. Conclusion

SunEdison must address all the findings described in Part II of this Resolution, and must comply with Regulation 8701, as amended.

The Energy Bureau **ORDERS** SunEdison to submit on or before five (5) days from the date of the notification of this Resolution and Order: i) the Gross Revenues generated during the month of December 2021; ii) total Gross Revenues generated during the Natural Year 2021.

The Energy Bureau also **GRANTS** SunEdison a time extension to file its operational report for the year 2021 (new due date June 10, 2022).

Upon a thorough examination of the arguments brought forth by SUNEDISON, the Energy Bureau **GRANTS** confidential designation and treatment to the gross income data and financial statements filed on Jan 28, 2022, under Article 6.15 of Act 57-2014.

Be it notified and published,



Edison Avilés Deliz
Chairman



Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner

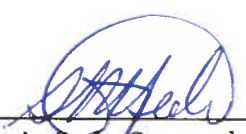


Sylvia B. Ugarte Araujo
Associate Commissioner

CERTIFICATION

I hereby certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on June 10, 2022. Associate Commissioner Ángel R. Rivera de la Cruz did not intervene. I also certify that on June 13, 2022 a copy of this Resolution and Order was notified by electronic mail to kedgar@tortoiseadvisors.com , ivc@mcvpr.com. I also certify that today, June 13, 2022, I have proceeded with the filing of the Order issued by the Puerto Rico Energy Bureau.

For the record, I sign this in San Juan, Puerto Rico, today June 13, 2022.



Sonia Seda Gaztambide
Clerk

⁹ *Id.*

